

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

RODNEY DEAN MYERS,

Petitioner,

v.

CIVIL ACTION NO. 2:05-0248
CRIMINAL NO. 2:04-00089-01

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND JUDGMENT ORDER

By Standing Order entered on July 21, 2004, this matter was referred to United States Magistrate Judge Mary E. Stanley. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge Stanley to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge Stanley submitted her Proposed Findings and Recommendation on July 21, 2006, and proposed that this court (1) confirm and accept the magistrate judge's findings contained within his Proposed Findings and Recommendation, (2) dismiss petitioner's Application under 28 U.S.C. § 2255 (Doc. No. 61), and (3) direct the Clerk to remove this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's Proposed Findings and Recommendation. The failure of any party to file


objections within the appropriate time frame constitutes a waiver of such party's right to a de novo review by this court.

Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985). No objections were filed in this case.

Having reviewed the Findings and Recommendation filed by Magistrate Judge Stanley, the court (1) CONFIRMS and ACCEPTS the factual and legal analysis within the magistrate judge's Proposed Findings and Recommendation, (2) DISMISSES petitioner's § 2255 Application (Doc. No. 61); and DIRECTS the Clerk to remove this action from the active docket of this court and to forward a certified copy of this Memorandum Opinion and Judgment Order to all counsel of record and the petitioner, pro se.

IT IS SO ORDERED this 15th day of August, 2006.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge